



201751247 - HUDSON, INEZ vs. DEISCH, DAVID (Court 129)

Chronological History (non-financial)

Summary Court Costs Appeals Judgments/Events Cost Statements Settings Transfers Services/Notices Post Trial Writs Court Registry Abstracts Child Support Parties Images

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[WS4]

8/2/2017 11:12 AM
Chris Daniel - District Clerk Harris County
Envelope No. 18585790
By: Bolanie Muraina
Filed: 8/2/2017 11:12 AM

2017-51247 / Court: 129

NO. _____

INEZ HUDSON

IN THE DISTRICT COURT

V.

____ JUDICIAL DISTRICT

DAVID DEISCH,
GATEWAY DISTRIBUTION,
INC., AND GATEWAY
DISTRIBUTION OF TEXAS, INC.

HARRIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, INEZ HUDSON, hereinafter called Plaintiff, complaining of and about DAVID DEISCH, GATEWAY DISTRIBUTION, INC., GATEWAY DISTRIBUTION OF TEXAS, INC., AND JUSTIN DIMAS, hereinafter called Defendants, and for cause of action shows unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

Plaintiff intends that discovery be conducted under Discovery Level 2.

PARTIES AND SERVICE

Plaintiff, INEZ HUDSON is an individual who resides in Houston, Texas.

Defendant, DAVID DEISCH, an individual who is a resident of Ohio, may be served with process at the following address: 3191 Williamsburg Batham Road, Bethel, Ohio 45106

Defendant, GATEWAY DISTRIBUTION OF TEXAS, INC., is a Texas Corporation, licensed to do business in the State of Texas and may be served through its registered agent: C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136. Service may be effected via Certified U.S. Mail, RRR, issued by the Harris County District Clerk.

Defendant, GATEWAY DISTRIBUTION, INC., is a Foreign Corporation, licensed to do business in the State of Texas and may be served through its registered agent: Morgan Carver, 4660 Pine Timbers, #170, Houston, Texas 77041. Service may be effected via Certified U.S. Mail, RRR, issued by the Harris County District Clerk.

JURISDICTION AND VENUE

The subject matter in controversy is within the jurisdictional limits of this court.

This court has jurisdiction over the parties because a Defendant is a Texas resident and/or Company authorized to do business in the State of Texas.

Venue is proper in Harris County, Texas, as this is the county in which the accident giving rise to the suit occurred.

Pursuant to Texas Rule of Civil Procedure 47, and pleading only to the court, Plaintiff specifies that she is seeking relief over \$1,000,000 but under \$2,000,000. Further, the amounts of the Plaintiff's damages are substantial and well in excess of the jurisdictional minimums of this Court. Many elements of damage, including pain, suffering and mental anguish in the past and future, past and future physical

impairment, and future lost earning capacity, cannot be determined with mathematical precision. Furthermore, the determination of many of these elements of damage is peculiarly within the province of the jury. Plaintiff does not at this time seek any certain amount of damages for any of these particular elements of damage, but would instead rely upon the collective wisdom of the jury to determine an amount that would fairly and reasonably compensate her. However, Plaintiff reserves the right to either file a trial amendment or an amended pleading on this issue should subsequent evidence show this figure to be either too high or too low.

FACTS

On or about November 11, 2015, Plaintiff, INEZ HUDSON, was operating her motor vehicle southbound and at the intersection of Southwest Freeway Service Road and Bellfort Street, in Harris County, Texas. Defendant, DAVID DEISCH, while in the course and scope of his employment with GATEWAY DISTRIBUTION OF TEXAS, INC., and/or GATEWAY DISTRIBUTION, INC., was operating his vehicle and traveling SOUTHBOUND ON THE Southwest Freeway Service Road, in the lane directly to the right of Plaintiff. Suddenly, and without warning, Defendant DAVID DEISCH, attempted to turn left at the intersection of Southwest Freeway Service Road and Bellfort Street, from an unauthorized lane, and failed to yield the right of way to Plaintiff, INEZ HUDON, who had the right of way, causing a collision between said vehicles

At the time of the collision, the driver of Defendant GATEWAY DISTRIBUTION OF TEXAS, INC.'s vehicle, DAVID DEISCH, was acting in the course and scope of his employment with the named Defendant GATEWAY DISTRIBUTION OF TEXAS, INC., and/or GATEWAY DISTRIBUTION, INC. Accordingly, named Defendant, GATEWAY DISTRIBUTION OF TEXAS, INC., and/or GATEWAY DISTRIBUTION, INC., is vicariously liable for DAVID DEISCH's negligent conduct which caused this collision and the resulting damages to Plaintiff.

PLAINTIFF'S CLAIMS OF NEGLIGENCE

Defendant, DAVID DEISCH, had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.

Plaintiff's injuries were proximately caused by Defendant, DAVID DEISCH's negligent, careless and reckless disregard of said duty. Defendant, DAVID DEISCH's actions also constituted gross negligence.

The negligent, careless and reckless disregard of duty of Defendant, DAVID DEISCH consisted of, but is not limited to, the following acts and omissions:

A. In that Defendant, DAVID DEISCH, failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;

B. In that Defendant, DAVID DEISCH failed to turn his motor vehicle in an effort to avoid the collision complained of;

C. In that Defendant, DAVID DEISCH failed to maintain a clear and reasonable distance between his vehicle and the motor

vehicles to his right;

D. In that Defendant, DAVID DEISCH failed to yield the right of way and turned when unsafe;

E. In that Defendant, DAVID DEISCH was operating his motor vehicle at a rate of speed which was greater than that would have been operated by a person of ordinary prudence under the same or similar circumstances;

F. In that Defendant, DAVID DEISCH failed to apply his brakes to his motor vehicle in a timely and prudent manner in order to avoid the collision in question;

G. In that Defendant, DAVID DEISCH failed to yield the right and changed lanes when unsafe; and

H. In that Defendant, DAVID DEISCH was operating a cellular device at the time of the incident which rendered him inattentive.

Further, Defendant GATEWAY DISTRIBUTION OF TEXAS, INC., and/or GATEWAY DISTRIBUTION, INC., is guilty of negligent entrustment in that they knew or should have known that Defendant, DAVID DEISCH was a careless and/or reckless driver.

Further, Defendants GATEWAY DISTRIBUTION OF TEXAS, INC., and/or GATEWAY DISTRIBUTION, INC., and DAVID DEISCH are guilty of negligently maintaining, retaining and inspecting the truck.

Finally, Defendants GATEWAY DISTRIBUTION OF TEXAS, INC., and/or GATEWAY DISTRIBUTION, INC. are guilty of negligent hiring, supervision, and/or training in that Defendants failed to properly hire, supervise, and train their employees.

GROSS NEGLIGENCE

Defendants' conduct, when viewed objectively from the standpoint of the Defendants at the time of the occurrence, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Defendants, moreover, had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety or welfare of the plaintiff.

As a result of the grossly negligent conduct of the defendant, Plaintiff suffered physical injuries and severe emotional distress.

DAMAGES FOR PLAINTIFF

As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, INEZ HUDSON, was caused to suffer serious injuries to her body and to incur the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in Harris County, Texas;
- B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Physical pain and suffering in the future;
- E. Physical impairment in the past;
- F. Physical impairment which, in all reasonable probability,

will be suffered in the future;

G. Loss of earnings in the past;

H. Loss of earning capacity which will, in all probability, be incurred in the future;

I. Property damage to her vehicle;

J. Mental anguish in the past;

K. Mental anguish in the future;

L. Physical disfigurement that was suffered in the past; and,

M. Physical disfigurement which will, in all probability, be incurred in the future.

REQUEST FOR DISCLOSURE

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendants are hereby requested to disclose, within fifty (50) days of service of this Petition and this request, the information or material described in Rule 194.2(a)-(l).


PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants, jointly and severally, for damages in an amount within the jurisdictional limits of the Court; excluding interest, and as allowed by Sec. 41.008, Chapter 41, Texas Civil Practice and Remedies Code, together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment

interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully Submitted,

GLAZE | GARRETT


Jordan A. Glaze
Texas Bar No. 24059826
Josh Garrett
Texas Bar No. 24067616
P.O. Box 1599
Gilmer, Texas 75644
T: 903-843-2323/ F: 888-511-1225
J.Glaze@glazegarrett.com
ATTORNEYS FOR PLAINTIFF

&
VU LAW FIRM
Vincent Vu
State Bar No. 24072408
9450 Richmond, Suite A
Houston, Texas 77063



CHRIS DANIEL
HARRIS COUNTY DISTRICT CLERK

ENTERED _____
VERIFIED WC

Civil Process Pick-Up Form

CAUSE NUMBER: 2017-51247
ATY X CIV _____ COURT 129

REQUESTING ATTORNEY/FIRM NOTIFICATION

*ATTORNEY: Glaze, Jordan Andrew PH: 803-843-2323
*CIVIL PROCESS SERVER: PCP 45
*PH: _____
*PERSON NOTIFIED SVC READY: _____
* NOTIFIED BY: _____
DATE: _____

Type of Service Document: <u>C, to</u>	Tracking Number <u>73401350</u>
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____

Process papers prepared by: **Marcella Hill**

Date: 8-3 2017 30 days waiting 9-3-17

*Process papers released to: Dee Carey
(PRINT NAME)
713-227-5858 Dee Carey
(CONTACT NUMBER) (SIGNATURE)
*Process papers released by: B. Depina
(PRINT NAME)
(SIGNATURE)
* Date: August 4, 2016 Time: 9:06 AM PM

7016 0600 0001 0813 9729

CAUSE NO. 201751247

RECEIPT NO.

75.00

CTM

TR # 73401347

PLAINTIFF: HUDSON, INEZ
vs.
DEFENDANT: DEISCH, DAVID

In The 129th
Judicial District Court
of Harris County, Texas
129TH DISTRICT COURT
Houston, TX

CITATION (CERTIFIED)

THE STATE OF TEXAS
County of Harris

TO: GATEWAY DISTRIBUTION INC (A FOREIGN CORPORATION) MAY BE SERVED BY
SERVING THROUGH REGISTERED AGENT MORGAN CARVER

4660 PINE TIMBERS #170 HOUSTON, TX 77041

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

This instrument was filed on the 2nd day of August, 2017, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 3rd day of August, 2017, under my hand and seal of said Court.

Issued at request of:
GLAZE, JORDAN ANDREW
PO BOX 1599
GILMER, TX 75644
Tel: (903) 843-2323
Bar No.: 24059826



Chris Daniel

CHRIS DANIEL, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

Generated By: HILL, MARCELLA DIANA DBG//10744647

CLERK'S RETURN BY MAILING

Came to hand the _____ day of _____, _____, and executed by mailing to Defendant certified mail, return receipt requested, restricted delivery, a true copy of this citation together with an attached copy of PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE to the following addressee at address:

ADDRESS

(a) ADDRESSEE

Service was executed in accordance with Rule 106
(2) TRCP, upon the Defendant as evidenced by the return receipt incorporated herein and attached hereto at

on _____ day of _____,
by U.S. Postal delivery to _____

This citation was not executed for the following reason: _____

CHRIS DANIEL, District Clerk
Harris County, TEXAS

By _____, Deputy

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging.

7016 0600 0001 0813 9729

al

CAUSE NO. 201751247

RECEIPT NO.

75.00 CTM

TR # 73401347

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vs.
DEFENDANT: DEISCH, DAVID

In The 129th
Judicial District Court
of Harris County, Texas
129TH DISTRICT COURT
Houston, TX

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THE STATE OF TEXAS
County of Harris

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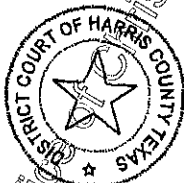
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CHRIS DANIEL, District Clerk
Harris County, TEXAS

By _____, Deputy

7016 0600 0001 0813 9736

CAUSE NO. 201751247

RECEIPT NO.

75.00

CTM

TR # 73401341

PLAINTIFF: HUDSON, INEZ
vs.
DEFENDANT: DEISCH, DAVID

In The 129th
Judicial District Court
of Harris County, Texas
129TH DISTRICT COURT
Houston, TX

CITATION (CERTIFIED)

THE STATE OF TEXAS
County of Harris

TO: GATEWAY DISTRIBUTION OF TEXAS INC (A TEXAS CORPORATION) MAY BE
SERVED BY SERVING THROUGH REGISTERED AGENT C T CORPORATION SYSTEM

1999 BRYAN STREET SUITE 900 DALLAS TX 75201 - 3136

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Bar No.: 24059826



Chris Daniel

CHRIS DANIEL, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

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CHRIS DANIEL, District Clerk
Harris County, TEXAS

By _____, Deputy

RECORDER'S MEMORANDUM
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W

CAUSE NO. 201751247

RECEIPT NO.

75.00

CTM

TR # 73401341

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vs.

DEFENDANT: DEISCH, DAVID

In The 129th
Judicial District Court
of Harris County, Texas
129TH DISTRICT COURT
Houston, TX

CITATION (CERTIFIED)

THE STATE OF TEXAS
County of Harris

TO: GATEWAY DISTRICT OF TEXAS INC (A TEXAS CORPORATION) MAY BE
SERVED BY SERVING THROUGH REGISTERED AGENT C T CORPORATION SYSTEM

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This citation was not executed for the following reason: _____

CHRIS DANIEL, District Clerk
Harris County, TEXAS

By _____, Deputy

2017 51247

7016 0600 0001 0813 9736

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
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Extra Services & Fees (check box and fee amount)
☐ Return Receipt (hardcopy)
☐ Return Receipt (electronic)
☐ Certified Mail Restricted Delivery
☐ Adult Signature Required
☐ Adult Signature Restricted Delivery

Postage
\$ 1.48

Total Postage
\$ 1.50

Sent To
Gateway Distribution of Texas Inc
Agt C T Corporation System
1999 Bryan Street, Ste 900
Dallas, TX 75201-3136

PS Form 3800, April 2012

MR. 8-4-17
Agt Daniel
District Clerk

129

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

201751247

FILEDChris Daniel
District Clerk

AUG 14 2017

Time: _____
Harris County, TexasBy _____
Deputy**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

Gateway Distribution of Texas Inc
Agt C T Corporation System
1999 Bryan Street, Ste 900
Dallas, TX 75201-3136



9590 9402 2332 6225 3435 24

2. Article Number (Transfer from service label)

006 0600 0001 0813 9736

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

X

☐ Agent☐ Addressee**B. Received by (Printed Name)**

Chris Wells

C. Date of Delivery

AUG 17 2017

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt